

A.C.O.T.S.

IBLA 81-1077

81-1078

Decided January 25, 1982

Appeal from decisions of the Medford, Oregon, District Manager, Bureau of Land Management, to offer timber tracts 81-24 and 81-39 for sale.

Affirmed.

1. Federal Land Policy and Management Act of 1976:  
Generally--Oregon and California Railroad and Reconveyed Coos Bay Grant Lands: Timber Sales--Timber Sales and Disposals

With respect to the management of timber resources subject to the Act of Aug. 28, 1937, which relates to Oregon and California Railroad and Reconveyed Coos Bay Grant Lands, any conflict or inconsistency between that Act and the Federal Land Policy and Management Act of 1976 must be resolved in accordance with the former. However, where no relevant conflict is shown, FLPMA's definition of "sustained yield" will apply to both statutes.

2. Timber Sales and Disposals

A BLM decision to proceed with a proposed timber sale, when reached after consideration of all relevant factors and supported by the record, will not be disturbed absent a showing that the decision is clearly erroneous.

APPEARANCES: Christopher Bratt, Chairman, Applegate Citizens Opposed to Toxic Sprays; Wayne A. Boden, Acting District Manager, Medford District Office, Bureau of Land Management.

## OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Applegate Citizens Opposed to Toxic Sprays (A.C.O.T.S.) appeals the dismissal of its protests, dated June 20 and June 24, 1981, against the decision of the Bureau of Land Management (BLM) to offer the Southside II and Wilson Creek tracts (81-24 and 81-39, respectively) in a timber sale. <sup>1/</sup> The tracts were offered on June 25, 1981, and the protests were denied by decisions, dated August 13, 1981, of BLM's Medford, Oregon, District Manager. Pursuant to 43 CFR 4.21, award of contracts to the high bidders has been withheld pending disposition of these appeals, which we have consolidated, sua sponte.

A.C.O.T.S.' statements of reasons for appeal can be characterized as a general and diverse criticism of BLM's timber management policies. However, one particular thought seems to represent the thrust of its appeal:

BLM is required to manage the land for sustained timber yield and other multiple uses. The Federal Land Policy and Management Act [of 1976] (FLPMA) [43 U.S.C. § 1702 (1976)] states: [The term "multiple use" means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people] "without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." [Emphasis added by A.C.O.T.S.]

A.C.O.T.S. also asserts that in addition to violating FLPMA, the

proposed timber sale is in violation of the multiple-use guidelines outlined in the O&C Land Act of 1937 [Oregon and California Railroad and Coos Bay Wagon Road Grant Lands, Act of August 28, 1937, 43 U.S.C. § 1181a (1976)]. BLM, Medford, is managing this forest for the exclusive harvesting of conifers. We ask that they abandon their notion of "intensive forest management" on this site and choose alternative management methods that do not accelerate the destruction of this already endangered area.

---

<sup>1/</sup> The Southside II timber sale, as proposed, will remove about 3.2 MMBF from 328 acres. The Wilson Creek timber sale, as proposed, consists of three clear cut units totaling 50 acres, two overstory removal units totaling 80 acres, and seven regeneration cut units totaling 210 acres.

As we noted in a recent decision, A.C.O.T.S., 60 IBLA 1 (1981), the concepts of "multiple use" and "sustained yield," which appellant seeks to invoke against the proposed timber sales, are so defined in FLPMA, supra, as to accord BLM definite latitude and discretion in implementing them. The so-called O&C Lands Act, 43 U.S.C. § 1181a (1976), provides that particular timber lands

shall be managed \* \* \* for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the princip[le] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational [facilities] \* \* \*.

[1, 2] With respect to the management of timber resources subject to the O&C Lands Act, any conflict or inconsistency between that Act and FLPMA must be resolved in accordance with the former. 2/ However, appellant has not claimed, nor can we determine, any relevant conflict in the statutes' requirements. The O&C Lands Act, which applies only to certain lands in Oregon, refers to the operative principle of "sustained yield" without defining it. Therefore, that term takes the definition provided in FLPMA, 3/ the statute applicable to public lands generally. This Board has consistently construed the relevant provisions of FLPMA as granting BLM substantial discretion in the management of Federal timberlands. We reaffirm that a BLM decision to proceed with a proposed timber sale, when reached after consideration of all relevant factors and supported by the record, will not be disturbed absent a showing that the decision is clearly erroneous. Ernest J. Goertzen, 51 IBLA 196, 197 (1980). BLM's August 13, 1981, decisions contain substantial responses to each point of A.C.O.T.S.' protests, creating a record representing BLM's consideration of at least each factor deemed relevant by the appellant. We find the decisions supported by the record and unrebutted.

---

2/ An uncodified portion of FLPMA, P.L. 94-579, § 701(b), 90 Stat. 2786 (43 U.S.C. § 1701 note (1976)), states:

"Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between [FLPMA] and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a-1181j), and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail."

3/ "Sustained yield" is defined in section 103(h) of FLPMA, 43 U.S.C. § 1702(h) (1976).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

---

Douglas E. Henriques  
Administrative Judge

We concur:

---

Edward W. Stuebing  
Administrative Judge

---

C. Randall Grant, Jr.  
Administrative Judge

